

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Judson Welfringer,
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-77-0470
Parcel No. 100/01773-000-000

On January 5, 2012, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant Judson Welfringer (Welfringer) requested a hearing and submitted evidence in support of his petition. He was represented at hearing by Attorney Michael S. Roling of Peddicord Wharton, LLP, West Des Moines, Iowa, at the hearing. The Board of Review was represented by Assistant County Attorney Ralph E. Marasco, Jr. Both parties submitted documentary evidence in support of their position. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Welfringer, owner of property located at 1606 30th Street, Drive, Des Moines, Iowa, appeals from the Polk County Board of Review decision reassessing his property. According to the property record card, the subject property consists of a one and one-half, story frame dwelling having 1505 total square feet of living area, a 896 square-foot unfinished basement, a 368 square-foot enclosed porch, a 140 square-foot open porch, and a 516 square-foot patio. The main dwelling was built in 1895, is in normal condition, and has an average (4+00) quality grade. The parcel is also improved by two detached garages; 280 square-foot garages built in 1970, and a 336 square-foot garage built in 1964. The dwelling is situated on a 0.328 acre site.

The real estate was classified as residential on the initial assessment of January 1, 2011, and valued at \$119,200, representing \$22,700 in land value and \$96,500 in improvement value.

Welfringer protested to the Board of Review on the ground that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(b). He claimed that \$32,500 was the actual value and a fair assessment of the property. The Board of Review granted the protest, in part, and reduced the assessment to \$104,700, allocated \$22,700 to land value and \$82,000 to dwelling value.

Welfringer filed his appeal with this Board on the same ground and claimed the assessment should be reduced to \$31,400, representing \$10,000 in land value and \$21,400 in dwelling value. This was a reduction of \$1100 from his value in the Board of Review protest, arrived at by subtracting a \$1100 home warranty which was included in the purchase price. Welfringer purchased the property February 4, 2011, in a foreclosure sale from a lender for \$32,500. The purchase was a cash sale, therefore no appraisal was completed.

Cindy Welfringer, Welfringer's mother, testified the dwelling was in poor repair, the lathe and plaster walls were damaged, the wood floor was damaged, and all of the windows were damaged or in poor condition. Fourteen of the twenty-two windows had broken glass, most had missing or broken screens and pulleys, and many did not open. Both dormer had holes in the roof that were open to the sky, which caused water damage, mold, and fungus in the stairwell, on the walls, and on the floor. There were numerous plumbing leaks and resulting water damage throughout the house.

In addition, Ms. Welfringer testified none of the kitchen appliances worked. Both of the two detached garages were in poor condition, leaning, and need to be demolished. She reported the basement walls are bow and deteriorating. There are also plumbing leaks and water damage in the basement. Most of the electrical was in sufficient condition to use. There were deficiencies in the driveway, plantings and exterior siding as well. The property had been vacant for approximately two

years before Welfringer purchased it. Ms. Welfringer had exhibits that showed the poor condition of the property.

Chris Schild, a licensed realtor that represented Welfringer in the purchase of the subject property filed an affidavit verifying the numerous deficiencies in the property, in addition to those shown in the photographs, and its very poor condition. Schild reported the property was not habitable at the time of purchase. Based on his involvement in the purchase, it is his opinion that the purchase price was based on comparable sales in the area and the comparables' condition and habitability as compared to the subject property. Schild is of the opinion that the subject property value as of January 1, 2011 was \$31,000.

The Board of Review submitted three sale comparables to support the subject property assessment. While they were in the same neighborhood, Ms. Welfringer testified she had been through one of the comparable properties and it was in superior condition compared to the subject property. It had a new roof, refinished floors, and new siding with the condition rated as normal.

Upon the request of this Board for the assessor's office to review the subject property, Jim Willett of the assessor's office inspected the property and made recommendations regarding its condition and value. Willett found generally very poor exterior conditions in the siding, windows, driveway and detached structures. He reported the roof had been replaced and new gutters installed. Willett observed numerous large cracks and no recent repairs to the original brick foundation walls and concrete floor. He noted new electrical service and new furnace and water heater. All plumbing fixtures and systems were in an unfinished state, but functional. He reported wall and ceiling condition ranging from good to very poor, noting large area of missing plaster/drywall and extremely sloping floors in some areas. Willett concluded with a recommendation to adjust the cost report for the 2011/2012 value to reflect the findings of his inspection. His revised cost report results in a building only value of \$31,300, and adding the \$22,700 land value, concludes a total assessment of \$54,000.

Reviewing all the evidence, we find the preponderance of the evidence supports Welfringer's contention that his property was assessed for more than authorized by law as of January 1, 2011. While the sale price of the subject property is given consideration, the fact that it was a foreclosure sale may have been a factor distorting the purchase price. Further, we find Willett's recommendations and revised cost report are the most credible evidence of the fair market value of the Welfringer property as of January 1, 2011.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.*

If sales are not available, “other factors” may be considered in arriving at market value. § 441.21(2). The assessed value of the property “shall be one hundred percent of its actual value.” § 441.21(1)(a).

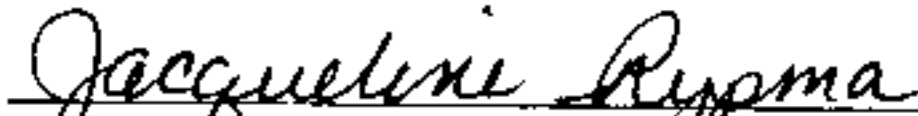
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). It is clear from the wording of section 441.21(1)(b) that a sales price for the subject property in a normal transaction just as a sales price of comparable property is a matter to be considered in arriving at market value but does not conclusively establish that value. However, a sales price in an abnormal transaction is not to be taken into account unless the distorting factors can be clearly accounted for. *Riley v. Iowa City Board of Review*, 549 N.W.2d 289, 290 (Iowa 1996). Since we are not assured Welfringer’s purchase of the distress sale property was free from distorting factors, we decline to rely solely on the purchase price as the sole indicator of market value, but believe it supports his claim of over-assessment.


We find Willett’s recommendations support the claim the property is over-assessed and rely on his revised cost report as the most credible evidence of the subject property’s fair market value as of the assessment date.

Viewing the evidence as a whole, we determine the preponderance of the evidence supports Welfringer’s claim of over-assessment as of January 1, 2011. Therefore, we modify the Welfringer property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2011, is \$54,000, representing \$22,700 in land value and \$31,300 in dwelling value.

THE APPEAL BOARD ORDERS that the January 1, 2011, assessment as determined by the Polk County Board of Review is modified to \$54,000, representing \$22,700 in land value and \$31,300 in dwelling value.

Dated this 29 day of February 2012.


Jacqueline Rypma, Presiding Officer


Richard Stradley, Board Member


Karen Oberman, Board Chair

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>2-29</u> , 201 <u>2</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	